

1 HONORABLE RONALD B. LEIGHTON
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 CASEY K CLINE,
11 v.
12 SAFEWAY INC,
13 Plaintiff,
Defendant.

CASE NO. C17-5828RBL
ORDER DENYING MOTION TO
REMAND

14 THIS MATTER is before the Court on Plaintiff Cline's Motion to Remand. [Dkt. # 9]
15 Cline was injured in a slip and fall accident at a Safeway store in Bremerton. She sued Safeway
16 (an out-of-state corporation) and two "Doe" defendants in state court. The amount in controversy
17 exceeds \$75,000.

18 Safeway timely removed the case here, invoking the Court's diversity jurisdiction. 28
19 U.S.C. §1332. It claimed, and continues to claim, that the fictitious defendants are sham
20 defendants fraudulently named to destroy diversity, and that their alleged citizenship should be
21 disregarded for purposes of diversity jurisdiction. It also argues that "doe" defendants are not
22 considered in determining diversity (even if they are not fraudulently joined). *See Bryant v. Ford*
23 *Motor Co.*, 886 F.2d 1526, 1527 (9th Cir. 1989). *See also Kruso v. International Telephone &*

¹ *Telegraph Corp.*, 872 F.2d 1416, 1424, 1425 (9th Cir. 1989) (with this 1988 amendment, “the naming of Doe defendants no longer defeats diversity jurisdiction”). [Dkt. # 10 at 3]

3 Cline argues that the two “Doe” defendants she named are not purely fictitious; she
4 named a specific manager (Karen Doe Manager) with whom she had contact on the day of the
5 accident, and another specific employee—she knew the actual persons, but not their actual
6 names, which is materially different than just naming a John Doe with no idea who that person
7 is. She also argues that her claims against these individuals are not fraudulent or sham, and that
8 Safeway cannot adjudicate the plausibility of those claims in opposing remand.

9 The Court agrees that Safeway has not established that the Doe individuals were
10 fraudulently named to defeat diversity. Nevertheless, the Rule in the Circuit is that the
11 citizenship of Doe defendants is not considered for evaluating diversity jurisdiction. Of course, if
12 these individuals are identified and named, and diversity is destroyed, we may re-visit this issue
13 as well as the viability of such claims under Rule 12(b)(6).

14 The Motion to Remand is DENIED.

15 IT IS SO ORDERED.

16 || Dated this 12th day of December, 2017.

Ronald B. Leighton